

THE INSTITUTE OF DESIGNERS OF KENYA BILL, 2019

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THE INSTITUTE OF DESIGNERS OF KENYA BILL, 2019
A Bill for

AN ACT of Parliament to make provision for the training, registration and licensing of the designers; to regulate their practice; to provide for the establishment, powers and functions of the Institute of Designers of Kenya and for connected purposes

ENACTED by the Parliament of Kenya, as follows-

PART I-PRELIMINARY

Short title and commencement

1. This bill may be cited as Institute of Designers of Kenya Bill 2019

Interpretation

2. In this bill, unless the context otherwise requires-

- a) "Institute" means the Institute of Designers of Kenya.
- b) "Design" means Interior Design, Graphic Design or Product Design
- c) "Designer" means Interior Designer, Graphic Designer or Product Designer
- d) "Cabinet Secretary" means the Cabinet Secretary responsible for matters relating to Design
- e) "approved institution" means an institution for the training of persons seeking registration or enrollment under this Act which has been declared by notice in the Gazette to be so approved by the Cabinet Secretary on the recommendation of the council;
- f) "Council" mean council of the Institute established under section 6.
- g) "Chapter" means a segment of the Institute established by under section 36;
- h) "Register" means the register maintained under section 12;
- i) "Certificate of Practice" means an acknowledge document of identification issued to members under section 21.
- j) "Registrar" means the registrar of design under section 10.

PART II –INSTITUTE OF DESIGNERS OF KENYA.

Establishment of the Institute

- 3.** 1) There is established an Institute to be known as the Institute of Designers of Kenya
2) The Institute shall—
a) have perpetual succession a
b) in its corporate name be capable of suing and being sued;
c) be capable of holding and alienating movable and immovable property.

Members of the Institute

- 4.** 1) A person who is registered under this Act is a member of the Institute
2) Members of the Institute shall be classified into the following categories, namely
a) Technician members shall be persons who were technician members at the proclamation of this Act thereafter shall be persons who have passed prescribed qualifications and have fulfilled such conditions as the institute shall prescribe.
b) Graduate members shall be persons who were graduate members at the proclamation of this Act thereafter shall be persons who have passed prescribed qualifications and have fulfilled such conditions as the institute shall prescribe.
c) Firm member shall be those firms who were declared to be firm members at the proclamation of this Act and thereafter shall be firms who have at least one partner or principal shareholder registered under section 16 of this Act, has a valid certificate of practice and have fulfilled such conditions as shall be prescribed by the institute.
d) Member of the Institute registered under section 17 of this Act;
3) Members of the Institute shall pay such fees and subscriptions as the council may from time to time prescribe.

Functions of the Institute

- 5.** The Institute is established to —
1) supervise and regulate the registration, certification and practice of design profession in Kenya
2) establish, develop, improve and maintain standards of all branches of design profession in their aspects and to safeguard interests of all designers;
3) with the approval of the Cabinet Secretary, make provision for the training and instruction for persons seeking registration or enrolment under this Act;
4) establish and improve the standards of professional design practice and management in Kenya;
5) with the approval of the Cabinet Secretary, prescribe and regulate syllabuses of instruction and courses of training for persons seeking registration or enrolment under this Act;
6) recommend to the Cabinet Secretary institutions to be approved institutions for training of persons seeking registration or enrolment under this Act;
7) have regard to the conduct of persons registered, enrolled or licensed under this Act, and take such disciplinary measures as may be necessary to maintain a proper standard of conduct among such persons;

- 8) with the approval of the Cabinet Secretary, prescribe and conduct examinations for persons seeking registration or enrolment under this Act;
- 9) Advise the Cabinet Secretary on matters concerning all aspects of design practice and management.
- 10) Carry out any other functions prescribed by the Cabinet Secretary.

PART III – MANAGEMENT OF THE INSTITUTE

Management of the institute

6. 1) The management of the institute shall be vested in a Council which shall consist of—
 - a) The chairperson appointed by the Cabinet Secretary from among members elected under paragraph d)
 - b) A senior public officer in the Government Department for the time being responsible for Design matters to represent the Principal Secretary for Public Works;
 - c) A representative designated in writing to represent the Principal Secretary of the Ministry for the time being responsible for Higher Education and who is a registered professional member of the Institute
 - d) Four other members of the institute appointed by the Cabinet Secretary, whom;
 - i. Two shall be from interior design chapter;
 - ii. Two shall be from graphic design chapter; and
 - iii. one shall be from product design chapter
 - e) Three persons, not being professional members elected by members of each chapter of the institute ;
 - f) The registrar of the institute.
- 2) The chapters of the institute shall once in every three years elect from among its members the nominees mentioned in sub-section 6)1) e).
- 3) No person shall be appointed as a member of the council under sub-section 1) d) unless such person-
 - a) is a registered professional member and holds a valid certificate of practice;
 - b) satisfies the requirements of chapter six of the Kenyan Constitution;
 - c) Is in good standing with the nominating chapter.

Vacancies in the council

7. 1) The office of a member of the council shall become vacant—
- a) On the expiry of three years from the date of appointment, provided that the person vacating office shall not be eligible for re- appointment for a further and final term;
 - b) On the withdrawal by the Cabinet Secretary of, or the withdrawal of the approval of the Cabinet Secretary to, his/her nomination as a member;
 - c) On the acceptance by the council of his/her resignation, such resignation having been made in writing addressed to the chairperson;
 - d) If being a person registered ceases to be so registered;
 - e) If he/she absents him/herself from three consecutive meetings of the council without the council's consent.
- 2) Upon any such vacancy occurring, it shall be filled in accordance with this Act and subsequent rules made thereof.

Declaration of the council

8. 1) It shall be the duty of the council to co-ordinate and control the affairs of the Institute.
- 2) The council shall have responsibility of ensuring that members adhere to this Act, code of professional conduct established and rules made thereby.
- 3) The council shall have control over the funds of the Institute.

PART IV-PROVISIONS RELATING TO TRAINING AND REGISTRATION OF PROFESSIONAL DESIGNERS.

Registrar of the institute

- 9.** 1) There shall be a registrar of the Institute who shall be appointed by the Cabinet Secretary.
- 2) The registrar who shall be a public officer shall keep and maintain a register in which the name of every person shall be entered after registration, showing against his name such particulars as the council may, direct.
- 3) Shall exercise and perform such other functions as the council may determine.

Register

- 10.** 1) The registrar shall compile and maintain custody of-
- a) a register of professional design assistants ;
 - b) a register of professionals designers ; and
 - c) Such other registers as may from time to time be prescribed by the council.
- 2) The register in sub section 1) shall be divided into three parts namely; for interior designers, graphic designers and product designers bearing natural persons and firms.
- 3) The registrar shall from time to time publish all entries into and suspensions or deletions from the register in such manner as the council may advice.
- 4) The register may, at reasonable hours, be inspected, and copies of all or any part of any entry in the register taken—
- a) without payment, by—
 - i. any public servant, acting in the course of his duty; or
 - ii. any person authorized by the registrar; or
 - b) on payment of such fee as the Council may prescribe.
- 5) A fee, to be known as a retention fee, may be prescribed for payment annually or at such longer intervals as the council may deem appropriate, by any person whose name appears on the register as a condition of maintaining his name thereon.

Power to remove from and correct register.

- 11.** 1) The council may at any time direct that the name of a registered person be removed from the register where such registered person has—
- a) failed within a period of six months from the date of an inquiry sent by the registrar letter to the address appearing in the register against his name, to notify the registrar of his current address;
 - b) requested that his name be removed from the register; or
 - c) been found to be guilty of misconduct
- 2) The registrar shall remove from the register the name of every registered person who dies, any entry which has been incorrectly or fraudulently made.

**Restoration to
the register.**

- 12.** 1) Where the name of any person has been removed from the register under section 11, the name of that registered person shall not be entered again in the register except by direction of the council.
- 2) Where the name of any person has been removed from the register or the effect of the registration of any person has been suspended, the council may, either of its own motion or on the application of the person concerned made in the prescribed manner, and in either case after holding such inquiry as the council may direct that—
- a) removal from the register be confirmed; or
 - b) the name of that person be restored to the register; or
 - c) suspension of the effect of the registration of the person be terminated.
- 3) A direction given by the council under sub-section (2) may include provision for the date upon which a restoration to the register or the termination of a suspension shall take effect and for the payment by the person concerned of such fee, not exceeding the fee payable on an application for registration, as the council may determine.

**Approved
training
institutions**

- 13.** 1) No person shall, being in charge of a training institution in Kenya may—
- a) Admit persons for training with a view to qualifying for registration under this Act; or
 - b) Conduct a course of training or administer the examinations prescribed for the purposes of registration under this Act; or
 - c) Issue any document or statement implying that the holder thereof has undergone a course of training or passed the examinations prescribed by the institute for purposes of registration:
- Unless such institution is approved and accredited by the Institute for that purpose in accordance with this Act and has paid the prescribed fee.
- 2) The council shall make regulations to prescribe the procedure for approving and accrediting training institutions for the purposes of this section.

**Professional
Registration**

- 14.** 1) Every application for registration as a professional designer shall be made to the Council.
- 2) The council shall;
- a) receive, consider and approve applications for professional registration.
 - b) grant certificate of practice to professional members in accordance with this Act;
 - c) issue, suspend, revoke or reinstate certificate of practice;

**Administration
of registration
process**

- 15.** 1) There is established a registration committee delegated to undertake this function of professional registration.
- 2) There shall be a chairperson of the committee from amongst the members specified under section 6)1)d) with due regard to the principle that such appointment shall alternate between the respective chapters in any successive term.
- 3) The council may co-opt such persons to assist administer this function.
- 4) Such persons co-opted must be registered professional members and not serving the Institute in any other capacity.

**Qualifications for
professional
registration**

- 16.** The registration committee may require a person making an application for professional registration to satisfy, in such manner as it may direct, that the person—
- 1)has undergone a prescribed course of instruction and passed the examination conducted or prescribed by the institute or has undergone a course of training and passed an examination which the institute recognizes as equivalent to the training and instruction prescribed under this Act;
- 2)has been a graduate member within the Institute chapters for at least two years.
- 3)has acceptable professional conduct and general character;

**Professional
members
classification**

- 17.** Professional members registered with the Institute shall either be;
- a) Design assistant as person who has obtained a diploma in design or any other relevant and equivalent qualification from a learning institution recognized in Kenya and has satisfied professional competence, suitability and by compliance with the requirements set out in the application form; or
- b) Professional Designer as a person who has obtained a bachelor degree in design or any other relevant and equivalent qualification from a university recognized in Kenya and has satisfied professional competence, suitability and by compliance with the requirements set out in the application form.

**Certification of
foreigners**

- 18.** 1)A foreign person shall be considered for registration as a professional designer in either of categories stated in section 17 if that person satisfies the council that;-
- a) is not ordinarily resident in Kenya;
- b) intends to be present in Kenya in the capacity of professional designer for the express purpose of carrying out specific work;
- 2) A foreign person shall not be registered unless that person possesses the necessary qualifications recognized for practice as a professional designer in the country where he/she normally practices; was practicing and holds a current professional registration documents;
- 3) No foreign designer shall be issued with certificate of practice to practice design or be entitled to any of the rights and privileges under this Act unless the country of which he/she is a subject or citizen has a policy which permits Kenyan designers to practice within its territorial limits on the same basis as the subjects or citizens of such foreign state or country.

4) The foreign designer shall be required to work in every case with a current certificate of practice holder who has been in continuous practice in design for at least five (5) years and whose competence and integrity have been established by the institute.

5) The foreigner and the Kenyan designers working jointly on a special project shall divide the professional fees and other charges from said project equitably, according to their participation in or professional services rendered to the project.

6) A foreign firm shall not be allowed to work in Kenya in design field unless an undertaking to employ at least twenty five percent workforces being currently registered professional designers is deposited with the Institute.

7) Foreigners working jointly with Kenyan designers shall sign contracts and other credits together. Both foreign and Kenyan designers shall at all times be acknowledged in all marketing, promotional materials and reportorial compliance for the project, whether prepared and/or submitted locally or abroad. All residual earnings shall also be equitably shared between foreign and the Kenyan designers.

8) Registration of a person under this section shall be valid for the period or for the duration of the work specified.

9) Pursuant to sub-section 8), the institute may approve registration for such period not exceeding one calendar year, renewable.

10) Any violation of these requirements or other illegal practices undertaken by the foreigner, foreign design firms or their Kenyan counterparts shall be punishable under this Act or any written law in Kenya.

11) Foreign design firms or individuals practicing in Kenya before the proclamation of this Act are required to comply within a transitional period of one year after the promulgation of this Act.

Professional Examinations

19. 1) Except as otherwise provided in this Act, in order to be issued with a certificate of practice, an applicant shall pass the professional examinations administered by the institute.

2) The passing score on the professional examinations shall be a passing score on each section that forms a part of the examination.

3) An applicant who was a corporate member of the Association of Designers of Kenya prior to the effective date of this Act shall not be required to undertake the Professional examinations but rather apply to the council to be considered for Professional registration.

**Conditions of
practice and
penalty**

- 20.** 1) No person shall practice as a professional designer unless the person has been issued with a current certificate of practice by the Institute.
- 2) A person who contravenes the provisions of this subsection 1) above commits an offence
- 3) A person shall not be entitled to recover a charge for professional design services unless that person is registered with the institute.
- 4) No person shall, while in charge of a design institution or any design department in Kenya employ any person who is not registered under this Act.
- 4) A person who contravenes the provisions of subsection 4) above commits a criminal offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or imprisonment for a term not exceeding two years, or to both.
- 5) A person who wilfully makes a false or misleading statement or utters a false certificate in an application for registration under this Act, commits an offence.

**Renewal of
Certificate of
Practice**

- 21.** 1) The certificate of practice issued shall be termed current from the date of issuance to the last day of March in every year and shall, upon expiry, be renewed.
- 2) A person issued with certificate of practice shall not file an application for renewal if the institute has suspended the applicant's certificate of practice.
- 3) At least sixty (60) days prior to the expiration of certificate of practice, the institute shall send a renewal application notice to the certificate holder's known address on record with the institute .
- 4) The failure of a holder of a certificate of practice to receive the notice required by sub section 2) of this Act does not relieve the holder of the responsibility of renewing the certificate.
- 5) A holder of a certificate of practice shall meet the requirements for renewal prior to the issuance of the renewal certificate of practice.
- 6) A holder of a certificate of practice shall provide the institute work address and shall notify the institute in writing of any change of the address within thirty (30) days of the change.
- 7) An applicant for renewal of certificate of practice shall submit the renewal application in a timely manner and shall complete continuing capacity development requirements before the expiration date of the certificate.
- 8) Denial of an application for renewal for failure to complete the continuing capacity development requirements shall require the applicant to complete the requirements prior to submitting an application for reinstatement.

**Practicing as a
Designer in Kenya**

- 22.** A person practices as a professional designer if, in consideration of remuneration or other benefits received or to be received, and whether by himself or in partnership with any other person, such person—
- 1) engages in the practice of design or holds himself out to the public as a person entitled to do so;
- 2) offers to perform or performs services involving or related to Design;
- 3) Engages in any practice, or performs or offers to perform any services, which may be prescribed so under this Act.

**Issuance and
use of seal**

- 23.** 1) Each designer with current certificate of practice shall procure a seal, which shall contain his name and certificate number. This seal shall comply in all aspects, including size and format as shall be prescribed by rules established by the institute:
- 2) The designer shall sign and affix the seal on all drawings, specifications and contract documents prepared by him or under his direct supervision during the validity of his certificate of practice. The seal shall be evidence of the authenticity of the documents.
- 3) When the certificate of practice has been revoked or suspended by the institute, the designer shall surrender his seal to the registrar within a period of thirty (30) days after the revocation or suspension has become effective. If the certificate of practice has been suspended for a period of time, his seal shall be returned upon expiration of the suspension period. The seal shall not be used for any purpose after the effective date of suspension or revocation.
- 4) Officers of the Government charged with the enforcement of regulations relating to the any matter in this Act shall accept only those documents which have been prepared by or under the supervision of a registered professional designer, signed, sealed and submitted in full accord with the provisions of this Act.
- 5) Procurement of professional works and/ or services involving interior design, graphic design or product design in public entities shall be done by professional members or firms registered with the institute.
- 6) Procurement of professional works and/ or services involving interior design, graphic design or product design in international organizations working in Kenya or branch office of a foreign registered company shall be done by professional members or firms registered with the Institute.
- 7) Violation of the foregoing under this section shall be an offence.
- 8) All certificates under the seal of the institute shall remain the property of the Institute.

PART V – DISCIPLINARY PROVISIONS.

Disciplinary committee

- 24.** 1) There is established a Disciplinary Committee of the Institute, which shall consist of;
- a) chairperson being the senior public officer in the Government Department for the time being responsible for Design matters serving the council;
 - b) three other representatives who are not members of the council, nominated by the chapters and must be registered professional members
 - c) two designers, one each from public and private practice, of distinguished professional standing nominated by the council, who shall not be member of the council.
 - d) The registrar who shall be the secretary to the committee
- 2) The quorum of the Committee shall be five members.
- 3) The council may refer a matter to the Committee if the it has reason to believe that any person registered as a designer, either before or after he became registered-
- a) has been convicted by a court of law of an offence punishable by imprisonment for more than six months, the commission of which in the opinion of the council has dishonoured him or her in the public estimation; or
 - b) has been convicted of or has acted in a manner amounting to Professional negligence or professional misconduct in respect of the profession, including any breach of provisions of the Act or regulations made pursuant to the Act.
- 4) a designer registered under this Act whose conduct has been referred to the Committee shall be afforded a fair hearing and may appear either in person or be represented by an advocate
- 5) The Committee may administer oaths or affirmation and may, subject to any rule, summon and enforce the attendance of persons as witnesses and the production of books and documents or other relevant evidence, on request by either party.
- 6) Subject to any regulations made under the Act, the Committee shall regulate its own procedure.
- 7) Upon providing notice and an opportunity for hearing in accordance with this Act, the committee may recommend; revocation, suspension, refusal to renew, or deny an application for a certificate for any violation of this Act.
- 8) If the council determines that there is a violation of this Act, it may take any of the actions specified in sub-section 3) or any one or more of the following actions:
- a) Reprimand the designer;
 - b) Place the designer on probation for a specified period;
 - c) Impose limitations on the certificate of practice of the designer;

- d) Require a course of remediation that may include retraining and, at the discretion of and in the manner prescribed; or
- e) Re-examination.

9) If the council places a designer on probation, imposes a limitation on the certificate, or requires a course of remediation, it may provide that if the designer fails to satisfy the conditions of probation, observe the limitations imposed on the certificate, or complete the course or remediation, may recommend to the council to suspend or revoke the designer's certificate.

Appeals .

25. 1) Any person aggrieved by a decision of the council to refuse to register his name, or to remove his name from the register, or to suspend registration of his name, or to refuse to restore his name to the register, may appeal to the High Court against the decision of the council and in any such appeal the High Court may give such directions in the matter as it thinks proper, and any order of the High Court under this section shall be final.

2) The council may appear as respondent and be heard at any appeal against its decision and, for the purpose of enabling directions to be given as to costs of any such appeal; the council shall be deemed to be a party thereto, whether or not it appears at the hearing of the appeal.

3) Until rules of court are made, the provisions of the civil procedure Act shall apply as if the decision or direction of the council appealed against under this section were a decree of a court exercising original jurisdiction.

Professional Conduct

26. A professional designer shall:

- 1) Conform to existing laws, regulations and codes governing procedures and practice of design as established by the jurisdictions in which he conducts business;
- 2) Maintain certificate of practice in good standing in any jurisdiction in which he conducts business;
- 3) Serve clients by only undertaking projects and responsibilities within his professional capacity and competence and within the definition according to the laws of his certificate of practice;
- 4) Clearly set forth the scope and nature of a project, services to be performed, and all methods of compensation for those services;

Unprofessional Conduct

27. 1) A member of the Institute shall be guilty of unprofessional conduct if such member—

- a) Allows any person to practice in his name as a designer, unless such person is a member of the Institute.
- b) is grossly negligent in the conduct of his or her professional duties;
- c) discloses information acquired in the course of engagement to any person other than a client, without the consent of the client;
- d) fails to observe and apply professional standards prescribed by the Institute ;

- e) enters into partnership with a person who does not hold a practicing certificate, or secures any professional business through the services of such a person or by means not open to a designer;
- f) fails to do any other act which prescribed by the Institute
- g) solicits clients or professional work or advertises professional attainments or services by use of means not prescribed by the institute;
- h) fails to declare a conflict of interest in relation to any particular matter or acts in a matter notwithstanding the presence of an undisclosed conflict of interest;.
- i) pays or allows or agrees to pay, directly or indirectly, to any person, other than a person who holds a practising certificate, is a retired partner or the legal representative of such a partner, any share, commission or brokerage out of the fees for, or profits of his or her professional services;

2) Sub-section 1)(b) shall not apply in respect of information disclosed to the institute in fulfillment of the requirements of a programme provided by the Institute.

3) Unprofessional conduct or professional misconduct in relation to a charge against a registered person shall be conduct which the council deems after due inquiry to be such

4) A registered person will be held responsible for the acts of members of his staff so far as they relate to matters relating to this Act and such as may the council prescribe.

Code of conduct

28. The institute shall develop a code of professional conduct for its members.

PART VI – FINANCIAL PROVISIONS

Moneys payable to the Institute

29. The funds of the Institute consist of—

- a) such money or assets as may accrue to or vest in the Institute in the course of the exercise of its powers under this Act; and
- b) All monies from any other source provided, donated, endowment or lent to the Institute.

Accounts and audit

30. 1)The Institute shall keep proper records in relation to the accounts and shall prepare in respect of each accounting year a statement of accounts.

2) The statement of accounts shall, subject to the overriding provisions of the Public Audit Act, 2003 (No. 12 of 2003), and *mutatis mutandis*, be audited as the case may be.

3) Within six months after the end of the financial year the Institute shall send to the Cabinet Secretary a copy of the statement together with a copy of any report made by the auditor concerned on that statement or on any such accounts.

PART VII—PROVISIONS ON DELEGATED POWERS

- 31.** 1) The Council, in consultation with the Cabinet Secretary, may make rules generally for the better carrying out of the provisions of this Act.
- 2) Without prejudice to the generality of subsection 1), the rules made under this section may provide for-
- a. forms to be used in connection with this Act or fees to be charged under this Act.
 - b. the conditions under which training schools for persons desirous of obtaining registration or enrolment under this Act may be approved and the courses of training and instruction to be undergone by persons seeking such registration or enrolment;
 - c. the subject matter of training courses and examinations to be conducted by the council;
 - d. the conditions of admission to the registers and of the certificate of practice;
 - e. the attendance of witnesses and the production of books and documents at an inquiry held by the institute;
 - f. the manner in which the various categories of persons for whom provision is made in this Act for registration or enrolment may be established and their training regulated;
 - g. the conditions of admission for entry to training courses and examinations to be conducted by the council;
 - h. the standards and conditions of professional practice of persons registered, enrolled or licensed under this Act;
 - i. the fees payable in respect of examinations, registration, enrolment, issue of licences, issue of certificates and in respect of any other matters under this Act;
 - j. the procedure for election of those members of the institute who are required to be elected;

PART VIII – MISCELLANEOUS PROVISIONS

Protection from liability

- 32.** No liability shall attach to any officer, employee or agent for any loss or damage sustained by any person as a result of any act, omission done or made in good faith and without negligence in the performance, exercise or the intended performance or exercise of any duty or power imposed or conferred by or under this Act.

Staff of the institute

- 33.** The council may appoint such officers and other staff as necessary for the proper discharge of its functions under this Act, upon such terms and conditions of service as the council may determine.

General penalty

- 34.** 1) Any person who, not being eligible to be registered, enrolled or licensed under this Act, uses any title appropriate to a person so registered, enrolled or licensed or holds himself out directly or indirectly as being so registered, enrolled or licensed, or wears any badge or other distinguishing device prescribed for the use of persons so

registered, enrolled or licensed, or any imitation thereof, shall be guilty of an offence and shall be liable to a fine not exceeding two million shillings or imprisonment for a term not exceeding two years or to both.

2) Any person who, not being eligible to be registered, enrolled or licensed under this Act, practises for gain as a designer, except in an area which the Cabinet Secretary has, by notice in the Gazette, determined to be suitable for such practice by persons who are not so registered, enrolled or licensed, or, except in such circumstances as may be specifically laid down in rules made under this Act, shall be guilty of an offence and shall be liable to a fine not exceeding one million shillings or imprisonment for a term not exceeding two years or to both.

3) Any person who, though eligible to be registered, enrolled or licensed under this Act, is not so registered, enrolled or licensed and who practices as a designer, shall be guilty of an offence and liable to a fine not exceeding three hundred thousand shillings or imprisonment for a term not exceeding six months.

4) Any person who, being registered, enrolled or licensed under this Act-

a) holds himself out, directly or indirectly, as being-

i) Registered in any register under this Act in which his name is not registered or enrolled;

ii) licensed under this Act to do anything which he is not licensed to do; or

b) uses any name, title or description other than that which he is entitled to use under this Act, commits an offence and on conviction shall be liable to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding six months

5) Any person, being in charge of any design institution which is not approved by the institute as an institution for the training of persons seeking registration or enrolment under this Act, who-

a) admits to the institution under his charge any person for the purpose of training in any of the categories of design in respect of which provision is made for registration or enrolment under this Act;

b) Purports to be conducting courses of training or examinations under this Act or regulations made thereunder;

c) issues any document, statement, badge or seal implying that the institution under his charge is approved by the institute as an institution for training of persons seeking registration or enrolment under this Act;

d) issues any document, statement, certificate, badge or seal implying that the holder thereof has undergone a course of instruction or passed an examination prescribed by the Institute, commits an offence and on conviction shall be liable to a fine not exceeding three million shillings or imprisonment for a term not exceeding two years or to both.

6) Any person who purports to conduct examinations behalf of the institute while not being authorized by the institute to do so commits an offence and on conviction shall be liable to a fine not exceeding two million shillings or imprisonment for a term not exceeding two years or to both.

7) 1) A person convicted of an offence under this Act for which no penalty is provided shall be liable upon conviction—

a) if the person is a natural person, to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both;

b) If the person is a body corporate, to a fine not exceeding three million shillings.

2) Where an offence in accordance with this Act is committed by a body corporate or unincorporated body, every director or manager of the body corporate or the unincorporated body shall be liable, on conviction, as if the director or manager had personally committed the offence unless the director or the manager proves to the satisfaction of the court that the act constituting the offence was done without knowledge, consent or connivance of the director or the manager.

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35. 1) On the day upon which this Act commences, designers and firms whose names appear in the register book of Association of Designers of Kenya shall *ipso facto* and automatically become members of the Institute thereof upon payment of prescribed fees.

2) Members pursuant to sub-section 1) shall apply to be graduate or technician members of the Institute, *mutatis mutandis*.

3) a) A registered designer who has been a member for continuous two preceding years with a legally registered association or society promoting matters of design in Kenya shall, in six (6) months after commencement of this Act, be deemed a member of the Institute, subject to payment of fee applicable and having met any other requirement set out in the application form.

b) Persons mentioned in sub-section a) may apply to the Institute to be considered for professional membership under section 17 if;

i) The association or society has corporate membership category or its equivalent and the applicant is such a member;

ii) The association or society has adopted and actively subscribe to a professional code of ethics for its members;

c) Other members pursuant to sub-section a) shall apply to be graduate or technician members of the Institute, *mutatis mutandis*.

3) a) A designer working in any form of employment in a public entity, international organizations operating in Kenya, non-governmental organization, branch office of a foreign registered company, corporated or uncorporated firm or any private sector body is required within nine (9) months from the commencement of this Act register with the Institute.

b) Sub-section a) shall apply to firms that practice design in Kenya

c) Violation of the foregoing under this sub-section shall be an offence and shall be liable to a fine not exceeding two hundred thousand shillings or imprisonment for a term not exceeding two years or to both.

Chapters of the Institute	36. The chapters referred in this Act have broad range of rules making powers relating to self governance and Administration. Such rules are subject to approval of the council.
Commencement	38. This Act shall come into force on such day as the Cabinet Secretary orders and declare in a <i>Gazette Notice</i> .

Draft for Review

FIRST SCHEDULE.

PROVISIONS RELATING TO MEETINGS OF THE COUNCIL OF THE INSTITUTE.

1. The council shall meet at least once in every three months to conduct their business.
2. The chairperson may on his own motion, or upon request by a member, call a special meeting at any time, where he considers it expedient for the transaction of the business.
3. Other than a special meeting, or unless three quarters of members agree, at least fourteen days' written notice of every meeting shall be given.
4. The quorum at a meeting shall be at least two thirds of the members or such greater number as may be determined in respect of an important matter
5. The chairperson shall preside at the meetings and in this absence, the members shall agree amongst themselves, a person to preside over the meeting.
6. The matters of the council shall be decided by consensus and majority of members by voting.
7. The proceedings shall not be invalidated by reason of a vacancy among the members or a defect in the appointment or qualification of a member

Subject to the provisions of this Schedule, the council may determine its own procedure and the procedure for any committee and for attendance of any other persons at the meetings and may make standing orders in respect thereof

MEMORANDUM OF OBJECTS AND REASONS.

The objective of this Bill is to provide for the training, registration and licensing of designers. The Bill further seeks to regulate the practice of designers and provide for the establishment, powers and functions of the Institute of Designers of Kenya.

The establishment and operationalization of the institute shall increase the levels of professionalism of designers and promote higher standards of accountability for their actions.

PART I—contain the preliminary provisions.

PART II—contains provisions on the establishment of the Institute of Designers of Kenya. Clause 4 and 5 defines members of the institute and provide for its functions respectively.

PART III—contain provisions on management of the Institute. Clause 6 establishes the council to govern the institute and clause 7 defines how vacancies arise from the council.

PART IV—contain provisions relating to training and registration of professional designers. Clause 9 establishes the office of registrar of the institute, clause 10 on management of register, Clause 13 provides for approval of training institutions. Clause 14 and 17 defines processes of professional registration and professional membership category respectively. Clause 18 provides for certification of foreign designers and clause 19 provides for professional examinations offences and penalties related to the registration, enrollment, licensing and training of Designers.

PART V—contains disciplinary provisions with Clause 24 establishing disciplinary committee to which references of professional misconduct may be submitted. Clause 28 provides development of a code of professional conduct for designers.

PART VI —contains financial provisions.

PART VII—contains provisions on the exercise of delegated powers by the Council in consultation with the Cabinet Secretary.

PART IX—contains miscellaneous provisions.

The First Schedule sets out regulations for the conduct of the business and affairs of the Council.

The Bill does not contain any provisions limiting any fundamental rights or freedoms.

The enactment of this Bill will not occasion additional expenditure of public funds.

Dated